

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

PHOENIX LABS RISING, LLC,

Case No. 08-74063 (AST)

Debtor.

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**ORDER GRANTING DEBTOR'S
MOTION TO DISMISS CHAPTER 11 CASE**

UPON the motion (the “Motion”) filed on February 1, 2010 by Phoenix Labs Rising, LLC (the “Debtor”), the debtor and debtor in possession, seeking entry of an order pursuant to section 1112(b) of the Bankruptcy Code dismissing this chapter 11 case; and upon the record of the hearing having been held on March 16, 2010 (the “Hearing”); and it appearing that notice of the Motion was good and sufficient under the particular circumstances and that no further notice is required; and the Court having considered the Creditors’ Committee (the “Committee”) Statement in support of the Motion dated February 3, 2010, the objection (the “Objection”) filed on March 11, 2010 by the National Labor Relations Board (“NLRB”) in opposition to the Motion to Dismiss solely limited to its request to have its alleged administrative expense claim paid together with the amounts determined to be due professionals retained in the case from the funds carved out from the secured claim of Golyan Holding LLC; the reply filed by the Creditors Committee on March 12, 2010, and the reply to the Objection filed by the Debtor on March 15, 2010; and the Court having determined at the Hearing that the relief sought in the Motion is in the best interest of the Debtor, the Debtor’s creditors, and the Debtor’s estate and that no useful purpose would be served by converting the case to Chapter 7 and the Court having ruled on the record that the NLRB is not entitled to participate in the funds carved out

from the Golyan Holding LLC's secured claim; and no party having opposed dismissal of the case; and after due deliberation thereon and good and sufficient cause appearing therefor; it is hereby

ORDERED, that the Objection is overruled; and it is further

ORDERED, that this case commenced under Chapter 11 of the Bankruptcy Code be and is dismissed for cause pursuant to 11 U.S.C. § 1112(b); such dismissal shall take effect upon Debtor paying to the United States Trustee the appropriate sum required, if any, pursuant to 28 U.S.C. § 1930; within seven (7) days of the entry of this order, Debtor shall provide to the United States Trustee an appropriate affidavit indicating the cash disbursements, if any, for the relevant period along such payment of such fees; and it is further

ORDERED, that the Debtor shall pay the Clerk of the Court its costs within seven (7) days of the entry of this Order; and it is further

ORDERED, that the Court shall retain jurisdiction of this case for the sole purpose of determining the final fees and expenses of the professionals retained by the Debtor and the Committee.


Consented to:

RUSKIN MOSCOU FALTISCHEK, P.C.
Attorneys for Creditors' Committee

By: /s/ Harold S. Berzow
Harold S. Berzow

Dated: March 18, 2010
Central Islip, New York




Alan S. Trust
United States Bankruptcy Judge